

***United States Court of Appeals
for the Second Circuit***



APPELLEE'S BRIEF

75-1359

To be submitted

United States Court of Appeals

FOR THE SECOND CIRCUIT

Docket No. 75-1359

UNITED STATES OF AMERICA,

Appellee,

—v.—

HERBERT SPERLING,

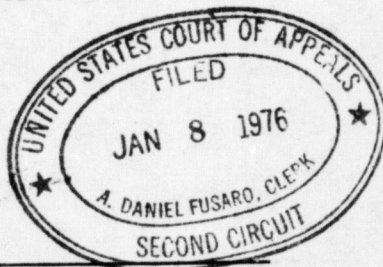
Defendant-Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

BRIEF FOR THE UNITED STATES OF AMERICA

THOMAS J. CAHILL,
*United States Attorney for the
Southern District of New York,
Attorney for the United States
of America.*

JOHN D. GORDAN, III,
JAMES P. LAVIN,
LAWRENCE B. PEDOWITZ,
*Assistant United States Attorneys,
Of Counsel.*



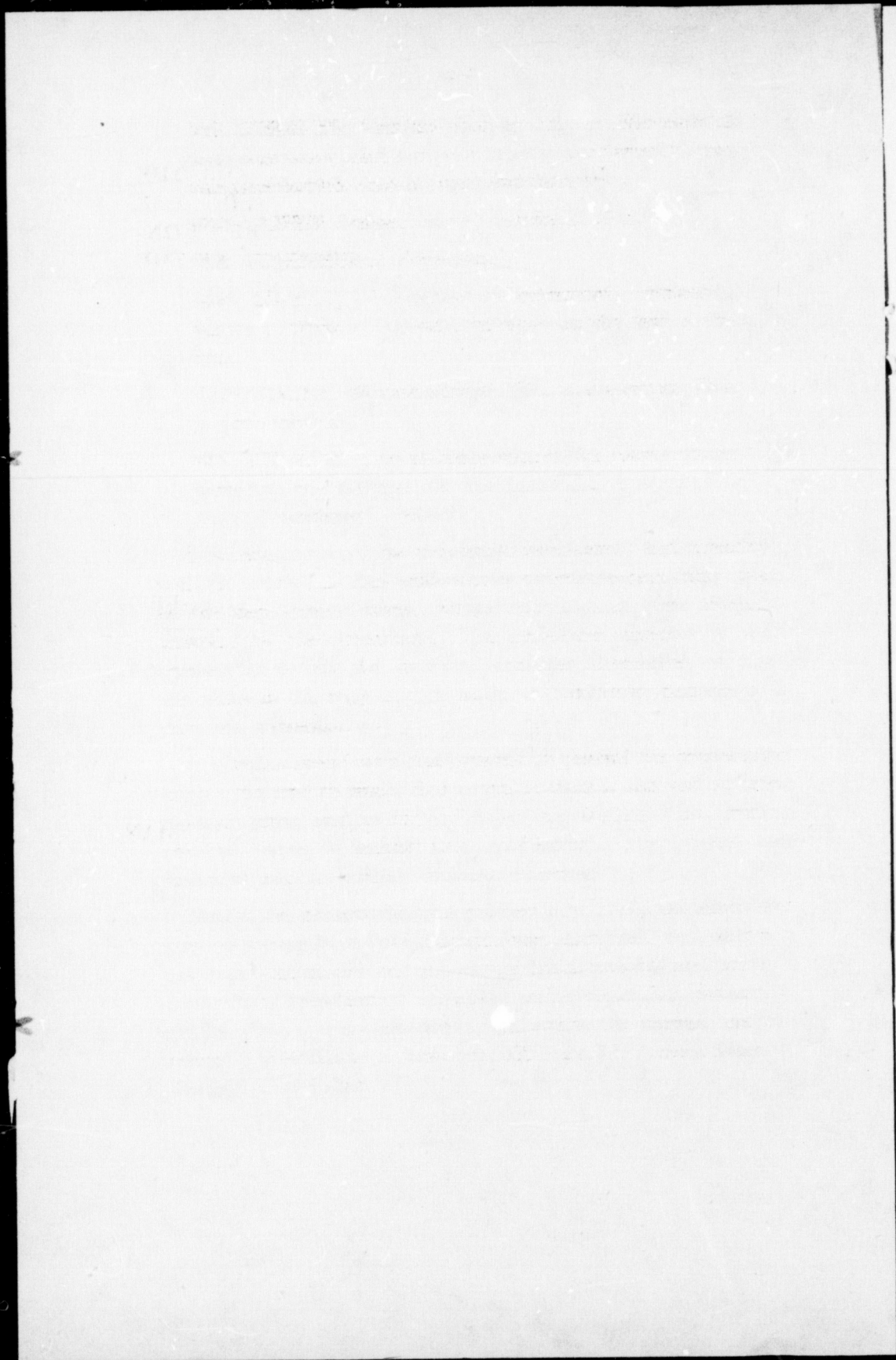


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United States Court of Appeals
FOR THE SECOND CIRCUIT

Docket No. 75-1359

UNITED STATES OF AMERICA,

Appellee,

—v.—

HERBERT SPERLING,

Defendant-Appellant.

BRIEF FOR THE UNITED STATES OF AMERICA

Preliminary Statement

Herbert Sperling appeals from an order of the Honorable Milton Pollack, United States District Judge, filed July 24, 1975, in the United States District Court for the Southern District of New York, denying his motion to have the order of nolle prosequi filed May 16, 1975, as to Sperling on Counts Eight, Nine and Ten of Indictment 73 Cr. 441 amended so as to dismiss those counts with prejudice.

Statement of Facts

Superseding Indictment 73 Cr. 441, filed May 11, 1973, charged Herbert Sperling and seventeen others in twelve counts with various violations of the federal narcotics laws. Count One charged all the defendants and six additional co-conspirators with conspiracy to violate the

federal narcotics laws commencing on January 1, 1971 and continuing until May 11, 1973, the date of filing of the indictment. Count Two charged Herbert Sperling with organizing and supervising a continuing criminal narcotics enterprise, in violation of Title 21, United States Code, Section 848. In addition, Sperling, along with others, was charged in Counts Eight, Nine and Ten with distributing and possessing with the intent to distribute one kilogram of cocaine in July, 1971, two kilograms of heroin in November, 1971, and one kilogram of cocaine in December, 1971.

Trial commenced on June 18, 1973, before the Honorable Milton Pollack, United States District Judge, and a jury, and on July 12, 1973, the jury found eleven defendants, including Sperling, guilty on all counts in which they were named.

On September 12, 1973, Judge Pollack sentenced Sperling to life imprisonment and a \$100,000 fine on Count Two. In addition Sperling was sentenced to concurrent terms of 30 years imprisonment, to be followed by six years special parole, on each of Counts One, Eight, Nine and Ten and to a \$200,000 fine.*

On October 10, 1974, this Court affirmed Sperling's convictions on Counts One and Two and reversed and remanded for a new trial on Counts Eight, Nine and Ten. *United States v. Sperling*, 506 F.2d 1323 (2d Cir. 1974). The mandate issued on January 30, 1975.

On March 3, 1975, Sperling's petition for a writ of certiorari was denied by the Supreme Court. *Sperling*

* Sperling was also ordered to pay the costs of the prosecution.

v. *United States*, 420 U.S. 962 (1975). An order of nolle prosequi was filed in the District Court on May 16, 1975, dismissing Counts Eight, Nine and Ten of Indictment 73 Cr. 441 as to Sperling.

By notice of motion dated July 3, 1975, Sperling moved before Judge Pollack to vacate the order of nolle prosequi and for a new trial on those counts—"whereby he may prove his innocence"—or, in the alternative, to have the order of nolle prosequi amended so as to dismiss Counts Eight, Nine and Ten with prejudice. Judge Pollack denied Sperling's motion by order filed July 24, 1975 (App. 1, 2).^{*} From that order this appeal is taken.

ARGUMENT

This Court lacks jurisdiction to hear this appeal, and Sperling's contentions on the merits are without substance.

On appeal, Sperling claims that Judge Pollack erred in denying his motion to amend the order of nolle prosequi to provide that Counts Eight, Nine and Ten of Indictment 73 Cr. 441 be dismissed with prejudice.^{**} His contentions must fail for a number of reasons.

First, an order of nolle prosequi is not appealable. *Parr v. United States*, 351 U.S. 513 (1956); *Lewis v. United States*, 216 U.S. 611 (1910). While here the appeal is from an order denying a motion attacking the filing of an order of nolle prosequi after the fact, rather than from an order of nolle prosequi entered over the

^{*} "App." refers to Sperling's appendix on this appeal.

^{**} Sperling has apparently abandoned in this Court his demand below that he be retried on these counts so that he could "prove his innocence."

defendant's objection as in *Parr* and *Lewis*, it is clear that for purposes of appellate jurisdiction this distinction is devoid of significance.*

Second, even if the order below were appealable, this Court would lack jurisdiction of Sperling's appeal because his notice of appeal was not timely filed. Judge Pollack's order denying Sperling's motion was entered in the District Court on July 24, 1975, but Sperling's notice of appeal from the order was not filed until September 8, 1975. Rule 4(b) of the Federal Rules of Appellate Procedure requires that in a criminal case a notice of appeal be filed within ten days of the entry of the judgment or order appealed from. This provision is "mandatory and jurisdictional". *United States v. Robinson*, 361 U.S. 220, 224 (1960). See also *United States v. Mathews*, 462 F.2d 182 (3d Cir.), cert. denied, 409 U.S. 896 (1972). While Rule 4(b) permits application to the District

* It has been suggested that the Supreme Court's subsequent decision on the merits in *Klopper v. North Carolina*, 386 U.S. 213 (1967), "vitiates the effect of the Court's earlier decision in *Parr v. United States*", *supra*. 8A J. Moore, *Federal Practice* ¶ 48.02[3] at 48-11 (1975 rev.). However, it is clear, as Professor Moore notes, that "[t]he appealability of a nolle prosequi was not questioned in the *Klopper* case." *Id.* Since *Parr* and *Lewis* were not mentioned in *Klopper*, appealability was not discussed, and there were uniquely prejudicial provisions in the North Carolina statutory scheme with regard to the effect of a nolle prosequi which are wholly absent in federal system, we respectfully submit that Professor Moore is wrong about the effect of *Klopper* on *Parr*. It has been settled since *United States v. More*, 3 Cranch (7 U.S.) 159, 172 (1805) (Marshall, C.J.), that an opinion on the merits which does not consider the issue of jurisdiction cannot be held to have decided it. See also *United States v. L. A. Tucker Truck Lines, Inc.*, 344 U.S. 33, 38 & n. 9 (1952). This rule has particular force when the jurisdictional issue has earlier been authoritatively settled by decisions of the Court not even cited by the subsequent opinion on the merits relied on for an unspoken conclusion to the contrary.

Court for an extension of time of up to thirty days to file a notice of appeal, no such application was made here.*

Third, even if Sperling's arguments on the merits were not insubstantial and this Court did have jurisdiction of the appeal, Sperling's present circumstances render this appeal utterly moot. Sperling has been sentenced to life imprisonment on his conviction under 21 U.S.C. § 848 on Count Two of the indictment, and under Section 848(c) he is ineligible for parole. That conviction has been sustained on appeal. Accordingly, even if the counts dismissed by *nolle prosequi* were hereafter revived, a conviction were secured upon them, and a sentence consecutive to that on the Section 848 count were imposed, it would have absolutely no practical effect on Sperling. In an analogous context, *United States v. Papadakis*, 510 F.2d 287, 299 (2d Cir.), *cert. denied*, 421 U.S. 950 (1975), this Court pointed out:

"We note first that we are met here with a claim of error by an appellant whose concurrent five year sentence in this case is merely repetitive of the consecutive five year sentences of imprisonment he had previously been sentenced to by other judges under convictions which have long since become final. In a sense no serious harm resulted from his third conviction.

On the other hand, there may be a certain *amour-propre* among some narcotics violators in pressing their appeals to which we give heed, in view of the hypothetical possibilities discussed in

* According to Sperling's brief (at 2), "[t]imely Notice of Appeal was submitted on August 19th, 1975, along with filing fee thereto." Even if the date the notice of appeal is claimed to have been "submitted" were the operative one for purposes of the jurisdiction of this Court, the appeal would still be untimely.

Benton v. Maryland, 395 U.S. 784, 790-791, 89 S. Ct. 2056, 23 L.Ed.2d 707 (1969). We shall consider the matters raised as if they were more meaningful."

Cf. Cardillo v. Doubleday & Co., Inc., 518 F.2d 638 (2d Cir. 1975). Here, however, in contrast to the situation in *Papadakis* and *Benton*, the issue presented relates not to other convictions but to the manner in which additional charges against the defendant have been dismissed. Moreover, even if the claim Sperling makes were not utterly mooted by his sentence of imprisonment for life, it would still be entirely proper for this Court in its discretion to decline to hear his present claim. *Barnes v. United States*, 412 U.S. 837, 848 n. 16 (1973); *United States ex rel. Weems v. Follette*, 414 F.2d 417 (2d Cir. 1969), *cert. denied*, 397 U.S. 950 (1970).

On the merits, it is equally clear that Sperling is entitled to no relief. It is, of course, true that since a dismissal by nolle prosequi is made under Rule 48(a) of the Federal Rules of Criminal Procedure, it is without prejudice to reindictment on the same charges. *United States v. Ortega-Alvarez*, 506 F.2d 455, 458 (2d Cir. 1974), *cert. denied*, 421 U.S. 910 (1975). As a practical matter, however, that risk is hardly a substantial one in Sperling's case, given Sperling's present incarceration for life and the Government's disavowal, in opposition to his motion, of any intention of ever reviving the charges dismissed by the nolle prosequi. But even if the nature of the dismissal here does not completely foreclose the possibility that the charges against Sperling might be resuscitated before their extinguishment by the statute of limitations later this year, Sperling was not entitled to the dismissal with prejudice he contends was his due under Rule 6 of the Southern District Plan for Achieving Prompt

Disposition of Criminal Cases (1973).^{*} That rule, which at the time directed that in ordinary circumstances retrial be held within ninety days of the finality of an order for a new trial, quite properly extended the ninety day period for "good cause". Here, although this Court's mandate affirming Sperling's conviction on Counts One and Two and reversing it on Counts Eight, Nine and Ten did issue on January 30, 1975, Sperling had by then petitioned for a writ of certiorari, which was not denied by the Supreme Court until March 3, 1975. The order of nolle prosequi on Counts Eight, Nine and Ten was filed well within the ninety day period following the denial of Sperling's petition for certiorari. Contrary to Sperling's argument, there is little basis to suggest that Rule 6 required his retrial on Counts Eight, Nine and Ten while his petition for certiorari was pending, particularly since success by Sperling in the Supreme Court would then at a minimum have necessitated yet another trial upon the same evidence on Counts One and Two. See *United States v. Roemer*, 514 F.2d 1377, 1379, 1381 (2d Cir. 1975). Cf. Rule 5(a) of the Southern District Plan for Achieving Prompt Disposition of Criminal Cases (1973).^{**} Finally, of course,

^{*} Sperling appears to assume that an order of dismissal under Rule 6 would necessarily be with prejudice to reindictment. This assumption is erroneous. *United States v. Yagid*, Dkt. No. 75-1288 (2d Cir., January 5, 1976).

^{**} The precise meaning of *Roemer* has been called into question by this Court's subsequent decision in *United States v. Yagid*, *supra*. The majority opinion in *Yagid* appears to distinguish *Roemer* on the grounds that since *Roemer* had lost in the Court of Appeals, the benefits he might have derived from his co-defendants' efforts in the Supreme Court were far different from what *Yagid*, who had secured the new trial he sought from the Court of Appeals, might have derived from the attempts in the Supreme Court of his co-defendant, who had obtained no relief in the Court of Appeals, to secure a new trial, or, on a ground *Yagid* had never raised, dismissal of the indictment. In this respect the situation here falls between *Roemer* and *Yagid*,

[Footnote continued on following page]

for here Sperling had only obtained partial relief from this Court and was seeking reversal in the Supreme Court of the counts this Court had affirmed.

However, both *Roemer* and *Yagid* differ from this case, crucially we submit, in the fact that here the further proceedings in the Supreme Court were instigated not by co-defendants, as in *Roemer* and *Yagid*, but rather by Sperling himself. Thus the concern expressed in *Yagid*, slip op. at 1445—that “a defendant, by asserting spurious claims in a petition for certiorari seeking greater relief than his co-defendant has sought and won, could bind his co-defendant insofar as a speedy trial is concerned”—has no application here. Furthermore, while Sperling sought review in the Supreme Court of only the convictions sustained by this Court on Counts One and Two, success in the Supreme Court would have conferred substantial benefits on Sperling in connection with any new trial on Counts Eight, Nine and Ten. Question Four in Sperling’s petition for certiorari was:

“Whether it was error of constitutional magnitude for the trial court to rule as collateral the petitioner’s numerous efforts to submit, to the jury, evidence of lawfully obtained taped recorded conversations between a government prosecutor, an informer, and the attorney for the informer (whose testimony was critical to the case at bar) which may have planted the seeds of doubt in the jury’s mind as to the petitioner’s guilt and thereby abort the imposition of the life sentence?”

This issue had been resolved against Sperling in this Court, *United States v. Sperling*, *supra*, 506 F.2d at 1332 n. 11, and is as settled in this Circuit as any evidentiary point has ever been. *United States v. Pacelli*, 521 F.2d 135, 139 & n. 2 (2d Cir. 1975); *cf. United States v. Pacelli*, 491 F.2d 1108, 1120 (2d Cir. 1974). It would, of course, have been an issue at the retrial of Counts Eight, Nine and Ten, *see United States v. Sperling*, *supra*, 506 F.2d at 1335, but one which Sperling would have been virtually foreclosed from relitigating by the decisions of this Court unless the Supreme Court had granted him the relief he sought.

All of this, of course, analyzes Sperling’s petition for certiorari in terms of the benefits that Supreme Court review might have conferred on Sperling. But the policies underlying the Prompt Disposition plans are designed primarily to protect the public interest, not the rights of the defendant, as *Yagid* empha-

[Footnote continued on following page]

in the unlikely event that the charges dismissed by nolle prosequi are ever revived within the statute of limitations, Sperling may move their dismissal on claims that such renewed prosecution would violate his rights under the Sixth Amendment and Rule 6. See *Parr v. United States*, *supra*, 351 U.S. at 517, 519.

Equally unavailing is Sperling's assertion that he has been denied fair treatment by the submission of the nolle prosequi to the trial judge without notice to him. There is no requirement in Rule 48(a) that an application to file a nolle prosequi be on notice to the defendant. 8A J. Moore, *Federal Practice* ¶ 48.02[1] at 48-4 (1975 rev.). While it may be "advisable in cases where opposition is anticipated for the government to provide or the court to require notice to the defendant", *id.*, Sperling points to nothing in the record which suggests that the Government should have concluded that he would object to the dismissal of the charges against him by an order of nolle prosequi. In any event, whatever right Sperling may have had to be heard on the form of the order dismissing Counts Eight, Nine and Ten has been more than satisfied by the District Court's consideration of his subsequent motion to modify its terms. See *In re Sadin*, 509 F.2d 1252, 1255-1256 (2d Cir. 1975).

sizes, slip op. at 1445. See also *United States v. Knight*, Dkt. No. 75-1316 (2d Cir., December 19, 1975), slip op. at 1144. It would hardly have furthered the public interest in the prompt disposition of criminal cases for the District Court to have retried Sperling on Counts Eight, Nine and Ten while his petition for certiorari was pending, since denial of the petition might well have been expected to bring forth a nolle prosequi on those counts, as it ultimately did; on the other hand, a reversal by the Supreme Court of what remained of Sperling's conviction might have required a retrial on other counts which could have been tried jointly with Counts Eight, Nine and Ten and, possibly, might have included an evidentiary ruling which would have required those three counts to be retried a third time.

CONCLUSION

The order of the District Court should be affirmed.

Respectfully submitted,

THOMAS J. CAHILL,
*United States Attorney for the
Southern District of New York,
Attorney for the United States
of America.*

JOHN D. GORDAN, III,
JAMES P. LAVIN,
LAWRENCE B. PEDOWITZ,
*Assistant United States Attorneys,
Of Counsel.*

AFFIDAVIT OF MAILING

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

John J. Gordin being duly sworn, deposes and says that he is employed in the office of the United States Attorney for the Southern District of New York.

That on the 8th day of January, 1976,
he served 2 copies of the within brief by placing the same in a properly postpaid franked envelope addressed:

Herbert Sperling #78271

PO Box PMB

Atlanta, Georgia 30315

And deponent further says that he sealed the said envelope and placed the same in the mailbox for mailing at the United States Courthouse Annex, One St. Andrew's Plaza, Borough of Manhattan, City of New York.

John J. Gordin

Sworn to before me this

8th day of January, 1976.

Gloria Calabrese

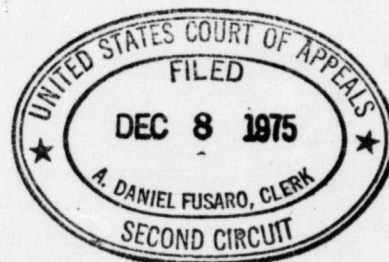
GLORIA CALABRESE
Notary Public, State of New York
No. 24-0535340
Qualified in Kings County
Commission Expires March 30, 1977

DEC 8 1975

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75-1359

A P P E N D I X



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UNITED STATES OF AMERICA;

-against-

HERBERT SPERLING,

DEFENDANT.

NOTICE OF MOTION TO VACATE THE
COURT'S ORDER GRANTING THE PRO-
SECUTOR'S Ex Parte APPLICATION
FOR NOLLE PROSEQUI; TO GRANT
THE DEFENDANT A RETRIAL; AND/OR
TO AMEND THE ORDER TO READ DIS-
MISSED WITH PREJUDICE

A-1

S 73 Cr. 441 MP

PLEASE TAKE NOTICE that upon the annexed affidavit of HERBERT SPERLING, the defendant pro se, sworn to on July 3, 1975, and upon all the other papers and proceedings in this case, the undersigned will move this Court on the next motion day occurring no more than five (5) days after the service and filing of this Notice and annexed affidavit, by the defendant's mother, Mrs. Cecile Sperling, for an Order granting the defendant his application for a vacature of this Court's Order wherein it granted the prosecutor's ex parte application for nolle prosequi of Counts 8, 9, and 10 of indictment 73 Cr. 441; Order a retrial thereto; and/or in the alternative to amend the original Order to read: "Dismissed With Prejudice." And for such other and further relief as to this Court may seem proper, and consistent, with due process of law.

DATED: July 3, 1975.

Herbert Sperling

Herbert Sperling, #78271
Defendant, pro se
PO Box PMB
Atlanta, Georgia 30315

Copy to: Paul J. Curran, U.S. Atty.
Southern District of New York
U.S. Courthouse--Foley Square
New York, New York State

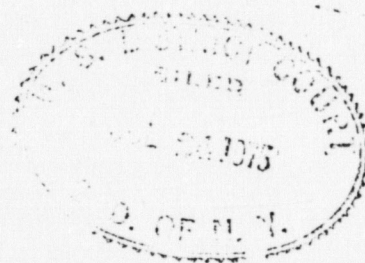
(Pro Se)

73 ^{Ex} ~~44~~ 44! (net)
(Herbert Spelling)

Motion Denied

So Ordered
JUL 24, 1975

Milom Plesack
U.S.D.J.



MICROFILM

JUL 24 1975

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

A-3

UNITED STATES OF AMERICA

versus

Case No. S 73 Cr. 441

HERBERT SPERLING, et al.,

Defendant(s).

MOTION FOR SPEEDY TRIAL

Defendant, HERBERT SPERLING, moves that he be granted a Speedy Trial upon Counts Eight, Nine and Ten in the above captioned case, or in lieu thereof, moves for a dismissal of the Indictment.

Respectfully submitted,

Herbert Sperling
Herbert Sperling, Defendant
#70271-150
Box P.M.B.
Atlanta, Georgia 30315

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by mail, to the Honorable Paul J. Curran, United States Attorney, United States Courthouse, Foley Square, New York, New York 10007, on this the 7 day of March, 1975.

Herbert Sperling
Herbert Sperling, Defendant

STATE OF GEORGIA)

: ss

COUNTY OF FULTON)

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 7 DAY OF MARCH, 1975.

Charles C. Mott
PAROLE OFFICER.

AFFIDAVIT OF POVERTY

STATE OF GEORGIA)
: ss
COUNTY OF FULTON)

HERBERT STERLING, who, after being duly sworn, according to law, on oath, deposes and says:

That he is a citizen of the United States, of legal age; and

That because of his poverty he is unable to pay the costs or fees in the attached motion, nor is he able to give any security for the same; and

That he is a pauper, within the meaning of the law of Adkins vs. Dupont, 335 U.S. 331; and

That he seeks redress, in good faith, to obtain the relief to which he verily believes he is entitled to receive.

WHEREFORE, the affiant Prays that the Court grant him permission to proceed herein in forma pauperis, for otherwise he will be precluded relief because of his inability to pay the costs thereof.

Herbert Sterling
Herbert Sterling, Affiant

Sworn to and Subscribed Before me

this 7 day of March, 1975.

Charles C. Mott
Parole Officer

A-5

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS



SENDER INSTRUCTIONS

Print your name, address, and ZIP Code in the space below.
• Complete items 1 and 2 on reverse side.
• Moisten gummed ends and attach to back of article.

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16-5

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78271

4

● SENDER: Complete items 1 and 2. Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).
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☐ Show to whom, date, & address of delivery. 35¢
☐ DELIVER ONLY TO ADDRESSEE and show to whom and date delivered. 55¢
☐ DELIVER ONLY TO ADDRESSEE and show to whom, date, and address of delivery. 85¢

2. ARTICLE ADDRESSED TO:
*US Dist Court
 222 n y*

3. ARTICLE DESCRIPTION:
 REGISTERED NO. *0369009* CERTIFIED NO. *INSURED NO.*

I have received the article described above.
 SIGNATURE *Jan*
 (Always obtain signature of addressee or agent)

4. DATE OF DELIVERY *MAR 13 1975* POSTMARK

5. ADDRESS (Complete only if requested)
SOUTHERN DISTRICT OF NEW YORK

6. UNABLE TO DELIVER BECAUSE: _____ CLERK'S INITIALS _____

PS Form 3811, Nov. 1973 RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

5

● SENDER: Complete items 1 and 2. Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).
☒ Show to whom and date delivered. 15¢
☐ Show to whom, date, & address of delivery. 35¢
☐ DELIVER ONLY TO ADDRESSEE and show to whom and date delivered. 55¢
☐ DELIVER ONLY TO ADDRESSEE and show to whom, date, and address of delivery. 85¢

2. ARTICLE ADDRESSED TO:
*Paul G Curran
 n y n y*

3. ARTICLE DESCRIPTION:
 REGISTERED NO. *0369013* CERTIFIED NO. *INSURED NO.*

I have received the article described above.
 SIGNATURE *SM*
 (Always obtain signature of addressee or agent)

4. DATE OF DELIVERY *3/13/75* POSTMARK

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: _____ CLERK'S INITIALS _____

PS Form 3811, Nov. 1973 RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

6

● SENDER: Complete items 1 and 2. Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).
☒ Show to whom and date delivered. 15¢
☐ Show to whom, date, & address of delivery. 35¢
☐ DELIVER ONLY TO ADDRESSEE and show to whom and date delivered. 55¢
☐ DELIVER ONLY TO ADDRESSEE and show to whom, date, and address of delivery. 85¢

2. ARTICLE ADDRESSED TO:
*Paul G Curran
 n y n y*

3. ARTICLE DESCRIPTION:
 REGISTERED NO. *0369845* CERTIFIED NO. *INSURED NO.*

I have received the article described above.
 SIGNATURE *SM*
 (Always obtain signature of addressee or agent)

4. DATE OF DELIVERY *5-3-72* POSTMARK

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: _____ CLERK'S INITIALS _____

PS Form 3811, Nov. 1973 RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

76

A-1

1

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

NEW YORK, NY
MAY 7 1975
PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, \$300

CHURCH STREET
STATION

U.S. MAIL

SENDER INSTRUCTIONS
Print your name, address, and ZIP Code in the space below.
• Complete items 1 and 2 on reverse side.
• Moisten gummed ends and attach to back of article.

RETURN TO

16-✓ 78271

BOX P.M.B.
ATLANTA, GA. 30315
OFFICIAL BUSINESS

2

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

NEW YORK, NY
MAY 7 1975
PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, \$300

CHURCH STREET
STATION

U.S. MAIL

SENDER INSTRUCTIONS
Print your name, address, and ZIP Code in the space below.
• Complete items 1 and 2 on reverse side.
• Moisten gummed ends and attach to back of article.

RETURN TO

78271

BOX P M B
ATLANTA, GA. 30315
OFFICIAL BUSINESS

3

HERBERT S. FLANNERY
Box P.M.B. 78271
ATLANTA, GA 30315

16-✓

U.S. MAIL

U.S. POSTAL SERVICE
OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, \$300

Postmark of Delivering Office

SENDER INSTRUCTIONS
Print in the space below your name, address, including ZIP Code.
• If special services are desired, check block(s) on other side.
• Moisten gummed ends and attach to back of article.

RETURN TO

PS Form 3811
June 1973

A-8

PS Form 3811, Nov. 1973

● SENDER: Complete items 1 and 2. Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one):

- ☒ Show to whom and date delivered..... 15¢
- ☐ Show to whom, date, & address of delivery..... 35¢
- ☐ DELIVER ONLY TO ADDRESSEE and show to whom and date delivered..... 65¢
- ☐ DELIVER ONLY TO ADDRESSEE and show to whom, date, and address of delivery..... 85¢

2. ARTICLE ADDRESSED TO: *Account papers*

3. ARTICLE DESCRIPTION: *May 1975*

REGISTERED NO. *0369848* CERTIFIED NO. INSURED NO.

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE *Braschi and Clark*

4. DATE OF DELIVERY POSTMARK

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS

* GPO : 1974 O - 527-803

PS Form 3811, Nov. 1973

● SENDER: Complete items 1 and 2. Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one):

- ☐ Show to whom and date delivered..... 15¢
- ☐ Show to whom, date, & address of delivery..... 35¢
- ☐ DELIVER ONLY TO ADDRESSEE and show to whom and date delivered..... 65¢
- ☐ DELIVER ONLY TO ADDRESSEE and show to whom, date, and address of delivery..... 85¢

2. ARTICLE ADDRESSED TO:

3. ARTICLE DESCRIPTION:

REGISTERED NO. *0369144* CERTIFIED NO. INSURED NO.

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE *M. H. Jones*

4. DATE OF DELIVERY POSTMARK *5/30/75*

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS

* GPO : 1974 O - 527-803

3

SENDER: Be sure to follow instructions on other side

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BLOCK(S)
(Additional charges required for these services)

☐ Show address where delivered ☐ Deliver ONLY to addressee

RECEIPT
Received the numbered article described below.

REGISTERED NO. *0369145*

CERTIFIED NO. *0369145*

INSURED NO.

DATE DELIVERED *6/2/75*

SIGNATURE OR NAME OF ADDRESSEE (Must always be filled in) *[Signature]*

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

SHOW WHERE DELIVERED (Only if requested, and include ZIP Code)

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address, and ZIP Code in the space below.
• Complete items 1 and 2 on reverse side.
• Moisten gummed ends and attach to back of article.

RETURN
TO

78271

BOX P M B
ATLANTA, GA. 30315
OFFICIAL BUSINESS

16-V-

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address, and ZIP Code in the space below.
• Complete items 1 and 2 on reverse side.
• Moisten gummed ends and attach to back of article.

RETURN
TO

78271

BOX P M B
ATLANTA, GA. 30315
OFFICIAL BUSINESS

16-V-

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address, and ZIP Code in the space below.
• Complete items 1 and 2 on reverse side.
• Moisten gummed ends and attach to back of article.

RETURN
TO

78271

BOX P M B
ATLANTA, GA. 30315
OFFICIAL BUSINESS

16-V-

7

PS Form 3811, Nov. 1973

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

1. The following service is requested (check one).
☐ Show to whom and date delivered. 15¢
☐ Show to whom, date, & address of delivery. 35¢
☐ DELIVER ONLY TO ADDRESSEE and show to whom and date delivered. 65¢
☐ DELIVER ONLY TO ADDRESSEE and show to whom, date, and address of delivery. 85¢

2. ARTICLE ADDRESSED TO:
 U.S. Court House
 Foley Square
 New York, New York 10007

3. ARTICLE DESCRIPTION:
 REGISTERED NO. 0369145 INSURED NO. 0369145

4. I have received the article described above.
 SIGNATURE *E. R. Lofgren-Stewart*
 (Always obtain signature of addressee or agent)

5. ADDRESS (Complete only if requested)
 DATE OF DELIVERY MAY 30 1975 POSTMARK

6. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS

9 GPO : 1974 O - 537-803

8

PS Form 3811, Nov. 1973

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

1. The following service is requested (check one).
☐ Show to whom and date delivered. 15¢
☐ Show to whom, date, & address of delivery. 35¢
☐ DELIVER ONLY TO ADDRESSEE and show to whom and date delivered. 65¢
☐ DELIVER ONLY TO ADDRESSEE and show to whom, date, and address of delivery. 85¢

2. ARTICLE ADDRESSED TO:

3. ARTICLE DESCRIPTION:
 REGISTERED NO. 0369143 INSURED NO. 0369143

4. I have received the article described above.
 SIGNATURE *[Signature]*
 (Always obtain signature of addressee or agent)

5. ADDRESS (Complete only if requested)
 DATE OF DELIVERY MAY 30 1975 POSTMARK
 CLERK U. S. DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK

6. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS

9 GPO : 1974 O - 537-803

9

PS Form 3811, Nov. 1973

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

1. The following service is requested (check one).
☐ Show to whom and date delivered. 15¢
☐ Show to whom, date, & address of delivery. 35¢
☐ DELIVER ONLY TO ADDRESSEE and show to whom and date delivered. 65¢
☐ DELIVER ONLY TO ADDRESSEE and show to whom, date, and address of delivery. 85¢

2. ARTICLE ADDRESSED TO:

3. ARTICLE DESCRIPTION:
 REGISTERED NO. 0369146 INSURED NO. 0369146

4. I have received the article described above.
 SIGNATURE *Martha A. Lofgren*
 (Always obtain signature of addressee or agent)

5. ADDRESS (Complete only if requested)
 DATE OF DELIVERY MAY 30 1975 POSTMARK

6. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS

9 GPO : 1974 O - 537-803

Herbert Sperling
Box RMB 78271
United States Penitentiary
Atlanta, Georgia 30315
May 26, 1975

Mr. Raymond F. Burghardt, Clerk
United States District Court for the
Southern District of New York
United States Courthouse
Foley Square
New York, N.Y. 10007

Re: United States v. Sperling, 73 Cr. 441

Dear Sir:

On November 11, 1974 I mailed to you, to be filed in the above-styled case, a motion for speedy trial on Counts 8, 9, and 10, my conviction on those counts having been reversed by the Court of Appeals.

On January 10, 1975, you wrote to me, advising that "Retrial according to the Rules will be scheduled by the Judge assigned, to commence at a date prior to April 30, 1975, subject to any delay provided for by the Rules."

On March 7, 1975, I mailed to you, to be filed herein, a second motion for speedy trial on Counts 8, 9 and 10.

On March 24, 1975, I wrote to Judge Bensal, inquiring as to whether trial date had been set. I sent a copy of this letter to you, and a copy to the United States Attorney.

Other than your letter to me dated January 10, 1975, I have received no word from any source as to whether, or when, I will be retried.

I am acting as my own attorney, and proceeding in forma pauperis. I believe I am entitled to be informed as to what has been done, or has not been done, with respect to setting my case on the calendar for retrial.

Presently I have evidence and witnesses available to establish my innocence on Counts 8, 9 and 10. However with the passage of time this evidence may become extinct and the memories of my witnesses attenuated.

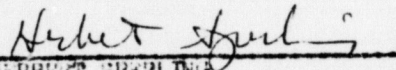
Please file this letter in the above-styled case, and let it serve as my third request for a speedy trial on Counts 8, 9 and 10, or in the alternative, dismissal.

Please send me a Xerox copy of all docket entries in this case subsequent to the filing of notice of appeal, so that I may be informed as to what has occurred, inasmuch as I am no longer represented by counsel.

Please advise as to whether my two prior motions for speedy trial were received and filed, and what action, if any, has been taken on said motions.

Please furnish any other information that is available to you as to whether, and when, I am to be retried on Counts 8, 9 and 10.

Yours truly

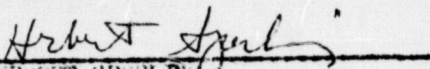

HERBERT SPURLING
DEFENDANT PRO SE

cc: Hon. Dudley B. Bonsal
United States District Judge

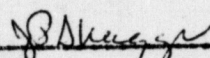
Hon. Paul J. Surran
United States Attorney

AFFIDAVIT

I hereby certify that the foregoing letter was mailed this date to the addressee named therein, with copies being mailed as indicated, first class mail, postage prepaid.


HERBERT SPURLING

Subscribed and sworn to before
me this 27 day of May, 1975



Paul J. Surran

Parole Officer Authorized by the Act of
July 7, 1955 to Administer Oaths (18 U.S.C.
4004).

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT OF NEW YORK

In The Matter Of
HERBERT SPERLING,
PETITIONER,
-against-
PAUL J. CURRAN, Assistant United
States Attorney For The Southern
District Of New York,
RESPONDENT.

73-2363

PETITION FOR A WRIT OF MANDAMUS PURSUANT
TO TITLE 28 U.S.C., Sec. 1361, FOR AN
ORDER COMPELLING THE GOVERNMENT TO SHOW
CAUSE WHY IT DOES NOT COMPLY WITH THIS
COURT'S MANDATE, OR IN THE ALTERNATIVE
TO DISMISS THE REMAINING UNTRIED COUNTS.

Now comes the petitioner, HERBERT SPERLING, Pro Se, respectfully moving this Honorable Court to issue an ORDER compelling the respondent to SHOW CAUSE why the writ of MANDAMUS should not issue.

JURISDICTION

The jurisdiction of this Court is being invoked under the statutory authority of Title 28, United States Code, Sec. 1361.

FACTUAL BACKGROUND

The petitioner, Herbert Sperling, was convicted for conspiracy to violate the narcotic laws (along with several other co-defendants); violation of 21 U.S.C., Sec. 848; and of three substantive counts (8, 9, and 10) which comprised the foundation for the Sec. 848 violation (Indictment No. 73 Cr 441). An appeal was timely taken to this Court, and oral arguments were heard on April 10, 1974. The decision of this Court was rendered on October 10, 1974 (506 F.2d 1323). At that time this Court reversed the substantive counts, 8, 9, and 10, as to the petitioner and remanded for a new trial (506 F.2d at pp. 1335-1345). Additionally, this Court reversed and remanded the conspiracy count as

5-1-75

to co-defendants Frank Bassi, Fred Berger, and Frank Serrano and ordered a new trial thereto.

The petitioner having exhausted his financial resources moved pro se and in forma pauperis to the United States Supreme Court seeking certiorari from this Court's affirmance of the conspiracy count and the Sec. 848 violation (Counts One and Two, respectively). On March 3, 1975, the Supreme Court declined to review the case.

Since this Court's opinion and mandate of October 10, 1974, the petitioner has made numerous pro se applications requesting a prompt re-trial on the reversed substantive counts (8, 9, and 10). At no time has he sought or acquiesced to any postponement, adjournment, or continuance. Notwithstanding his efforts to obtain a prompt re-trial he has never received any acknowledgement to his requests for a speedy disposition.

The co-defendants who received a reversal of the conspiracy count, Frank Bassi, Fred Berger, and Frank Serrano, commenced retrial, before a jury, on April 22, 1975, in the Southern District of New York. And on or about April 29, 1975, the jury returned a not guilty verdict after five minutes of deliberation. The petitioner, meanwhile, still remains in the dark as to the status of his re-trial as ordered by this Court. And his inability to evoke a response in this area compels him to seek this Court's intervention via the extraordinary Writ of Mandamus.

ISSUE PRESENTED

1. Whether the failure of the Government to act on petitioner's requests for a prompt disposition of the reversed substantive counts mandate dismissal of these reversed counts?

REASONS WHY THE INSTANT PETITION SHOULD BE GRANTED

The petitioner respectfully submits to this Honorable Court that the failure of the Government to adhere to the mandate of this Appellate Court renders appellate review^a meaningless function of mere form devoid of substance. And whether or not the Government-respondent

can ignore this Court's mandate is an issue that lies directly within the scope of this Court's province.

Concededly, this Court Affirmed Count One (conspiracy, 30 years) and Count Two (21 U.S.C., Sec. 848, Life) but, notwithstanding, the petitioner has a right to a prompt and speedy disposition of the reversed counts or in the alternative for their dismissal. Due process of law requires no less.

The Plan For Achieving Prompt Disposition Of Criminal Cases, Rule 6, dealing with re-trials provides that:

"Where a new trial has been ordered by the district court or a trial or new trial has been ordered by an appellate court, it shall commence at the earliest practicable time, but in any event not later than 90 days after the finality of such order unless extended for good cause." (Rules Of The U.S. Courts In New York, p. 166.11)

WHEREFORE, the petitioner respectfully moves this Honorable Court for its intercession via the instant Writ of Mandamus to compel the Government-respondent to comply with this Court's mandate of October 10, 1974, or in the alternative to dismiss counts 8, 9, and 10, of indictment No. 73-Cr-441.

Yours etc.,

Herbert Sperling
 Herbert Sperling #78271
 Petitioner pro se
 PO Box PMB
 Atlanta, Georgia 30315

CERTIFICATE OF SERVICE
BY MAIL

)
 State Of Georgia)
) SS:
 County Of Fulton)

HERBERT SPERLING, the petitioner pro se, after being duly sworn, deposes and says: that on this 1st day of May 1975 he served a copy of the instant papers upon the respondent.

Sworn to before me this
 1st day of May 1975.

Charles E. Murrell
 Parole Officer Authorized by the Act of
 July 7, 1955 to Administer Oaths (18 U.S.C.)

Herbert Sperling
 Herbert Sperling #78271
 Petitioner pro se

May 25, 1975

A. Daniel Fusaro, Clerk
U.S. Court Of Appeals
Second Circuit
U.S. Courthouse--Foley Square
New York, New York State 10007

Re: Sperling V. Curran
73-2363

Dear Sir:

On May 1, 1975, I submitted a Motion for Mandamus in the above captioned matter, it was received by this office on May 5, 1975, via certified mail return receipt requested. Notwithstanding that I proceeded pro se the motion was responsive to the statutory guidelines for extraordinary writs. However, as of this date I have not received any notification, from this office or the Court itself, as to the status of my motion. And being fully acquainted with the high concern that this office has always exhibited in processing other indigent's papers submitted pro se I, accordingly, request similar treatment which will be harmonious to the noble dictates of fair play as embodied within the abstract contours of due process. For despite the fact that the majesty of our Government has, from the incipency, manipulated a case against me (I fully realize that it has been through individual actions) I cannot, by the same token, conceive of this office been influenced by unorthodox and unwholesome pressures.

I have repeatedly and legally demanded a quick and speedy trial on the ~~three~~ counts that this Court reversed and remanded for a new trial and have been repeatedly and systematically ignored by the Government and the lower court. It now appears that this Court is also ignoring my efforts to obtain some form of finality so that I may exercise other avenues of relief. Inaction by this Court may very well serve as the key factor that will make me the recipient of the full impact of undue process of law.

Since this Court's reversal new evidence has come to light that would enable me to obtain vindication of counts 8, 9, and 10, the reversed counts. Said vindication would then, perhaps be instrumental in showing to the trial judge the real need for a new trial on the affirmed counts. Unfortunately, the delay that I am experiencing is affecting my ability to establish my complete innocence and may be conducive to me losing contact with valuable witnesses and/or available evidence. For it is of interest to note that some of the cO-defendants who were ordered back for a retrial have already been retried--and acquitted because of newly discovered evidence.

I hopefully await some type of notification as to the present status of my motion and writ of mandamus. Expecting to hear from you soon. I am

Very truly yours

Herbert Sperling
Herbert Sperling, #78271

CC:

May 27, 1975

B. May Jr

Rec'd: Order, approved by the S. of
JUL 2 1975 in Admin. Order 274 (18 USC
4004).

Page 5

DATE	PROCEEDINGS	A-18
7-26-73	Filed Govt's affdvt (unsigned cony) re: deft Bassi's motion to be released on bail.	
7-26-73	Filed memo-end. on motion dtd 7-23-73. Motion denied. See record of hearing this date. Pollack, J. m/n/	
7-27-72	HERBERT SPERLING-Filed memo endorsed on motion filed 7-19-73 to arrest judgment. The indictment closely follows the language of the drug law. As previously determined the indictment is in all respects sufficient. The deft. was provided with a bill of particulars which provided additional details of the crimes and acts alleged. Motion denied. So Ordered--Pollack, J. Mailed notices.	
Aug 23-73	Filed OPINION #39780-...The motion for a new trial is in all respects denied. POLLACK, J. (mn)	
8-23-73	Deft Ben Mallah (atty James Le. Rossa present) -application for reduction of bail granted. Bail reduced to the amount of \$100,000. condition that deft turnover passport and reports to marshals' office once a week and phones same once a week. Remanded in lieu of bail. Pollack, J. /FRANK SERRANO	
9-12-73	Deft (atty present) admits that he is the person previously convicted as charged in the within information. Pollack, J.	
9-12-73	FRANK BASSI, Jr.-Deft (atty Nancy Rosner present) admits that he is the person previously convicted as charged in the within information. Pollack, J.	
9-12-73	LOUIS VALENTINE-(atty Victor L. Brizel present) Deft produced on a writ. Admits that he is the person previously convicted as charged in the within information. Writ satisfied. Pollack, J.	
9-12-73	HERBERT SPERLING-(atty Raymond E. La Porte present) denies that he is the person previously convicted as charged in the within information. Hearing held and concluded. The court finds that the deft is the person previously convicted as charged in the within information. Pollack, J.	
9-12-73	JUAN SERRANO-(atty Irving Katcher present) admits that he is the person previously convicted as charged in the within information. Pollack, J.	
9-12-73	Filed deft's notice of motion re: stay of sentence, etc. ret: 9/12/73.	
9-12-73	Filed MEMO-END. on motion dtd this date. Motion for a stay of sentence and judgment submitted by a deft himself although represented by counsel. There is no merit to the application and even if it had been submitted by counsel, the disposition would be the same. Pollack, J. mn	

DATE	PROCEEDINGS	A-19
9-12-73	Filed deft's notice of motion re: for order granting deft' Valentine's minutes without charge ret: 9-12-73.	
9-12-73	Filed MEMO-END. on motion dtd this date. Motion denied. Transcripts of the proceedings referred to are on file in the Clerk's Office and are accessible and available to deft and his counsel. There is no excuse for piling up expenses of litigation b y govt. subsidized defts by purchasing indiscriminately additional copies of available documents or papers not shown to have a particulized purpose or need. The court exhibits (notes submitted during trial) are also all on file in the Clerk's Office. Pollack, J. mn	
9-13-73	EDWARD PETER SCHWORAK- filed notice of appeal from the judgment dtd 9-12-73. mailed copies.	
9-12-73	# 73,744 FRED BERGER- (atty present) filed JUDGMENT- deft is hereby committed to the custody of the Atty General or his authorized representative for imprisonment for a period of THREE (3) YEARS on count 1. Pursuant to the provisions of Title 21, Sec. 841, US Code, the deft. is placed on Special Parole for a term of THREE (3) YEARS to commence upon expiration of confinement. -AND- FINED \$10,000. to be paid or deft is to remain committed until the fine is paid or he is otherwise discharged according to law. Deft is cort'd on present bail pending notice of appeal, and thereafter bail pending appeal is fixed at \$25,000.00. Pollack, J. 9-17-73 Issued commitments	
9-12-73	# 73,743 FRANK SERRANO- (atty present) filed JUDGMENT- deft is committed to the custody of the Atty General or his authorized representative for imprisonment for a period of FIVE (5) YEARS on each of Counts 1 & 3 to run concurrently with each other. Pursuant to the provisions of Title 21, Sec. 841, US Code, the deft is placed on Special Parol for a term of SIX (6) YEARS to commence upon expiration of confinement. This sentence is to run CONSECUTIVELY to any unexpired time the sentence imposed on 7-17-66 by Judge George Rosling in the East District of New York -AND- FINED \$5,000. to cover both counts1. Fine is to be paid or deft is to remain committed until the fine is paid or he is otherwise discharged according to law. Deft is cont'd on present bail pending Notice of Appeal, and thereafter bail pending appeal is fixed at \$20,000. Condition of bail pending Appeal be that the deft. obey all Federal, State and Local laws. Pollack, J. 9-17-73 Issued commitments.	
9-12-73	# 73,749 NELSON GARCIA- (atty present) filed JUDGMENT- deft is hereby committed to the custody of the Atty General or his authorized representative for imprisonment for a period of TEN (10) YEARS on each of counts 1 and 11 to run concurrently with each other. Pursuant to the provisions of Title 21, Sec. 841, US Code, the deft is placed on Special Parole for a term of SIX (6) YEARS to commence upon expiration of confinement. This sentence is to run CONSECUTIVELY to the sentence imposed on 8-2-73 in Indictment Criminal No. 81-72 in the District of New Jersey. -AND- FINED \$25,000. to cover both counts. Fine is to be paid or deft is to remain committed until the fine is paid or he is otherwise discharged according to law. Pollack, J. 9-17-73 Issued commitments.	

DATE	PROCEEDINGS
9-12-73	<p style="text-align: right;">#73,783</p> <p>NELSON GARCIA- (atty present) filed JUDGMENT-Deft is hereby committed to the custody of the Atty General or his authorized representative for imprisonment for a period of TEN (10) YEARS on each of counts 1 and 11 to run concurrently with each other. Pursuant to the provisions of Title 21, Sec. 841, US Code, the deft is placed on Special Parole for a term of SIX (6) YEARS to commence upon expiration of confinement. This sentence is to run CONSECUTIVELY to the sentence imposed on 8-2-73 in Indictment Criminal No. 81-72 in the District of New Jersey. -AND- FINED \$25,000. to cover both counts. Fine is to be paid or deft is to remain committed until the fine is paid or he is otherwise discharged according to law. Pollack, J. 9-17-73 Issued commitments.</p>
9-12-73	<p style="text-align: right;">#73,785</p> <p>FRANK BASSI, JR.- (atty present) filed JUDGMENT- Deft is hereby committed to the custody of the Atty General or his authorized representative for imprisonment for a period of TWELVE (12) YEARS on count 1. Pursuant to the provisions of Title 21, Sec. 841, the deft is placed on Special Parole for a term of SIX (6) YEARS to commence upon expiration of confinement. -AND- FINED \$50,000. to be paid or deft is to remain committed until the fine is paid or he is otherwise discharged according to law. Deft is advised of his right to appeal. Pollack, J. 9-17-73 Issued commitments.</p>
9-12-73	<p style="text-align: right;">#73,799</p> <p>JUAN SERRANO- (atty present) filed JUDGMENT- Deft is hereby committed to the custody of the Atty General or his authorized representative for imprisonment for a period of TWELVE (12) YEARS on each of counts 1, 7 & 10 to run concurrently with each other. Pursuant to the provisions of Sec. 841, T.21, US. Code, deft is placed on Special Parole for a term of SIX (6) YEARS to commence upon expiration of confinement. -AND- FINED \$50,000 to cover all counts. Fine is to be paid or deft is to remain committed until the fine is paid or he is otherwise discharged according to law. Deft is cont'd on present bail pending Notice of Appeal, and thereafter bail pending Appeal is fixed at \$50,000. Conditions of bail pending being that the deft report every Tuesday by telephone and every Friday in person to the office of the U.S. Atty and that he obey all Federal, State and Local Laws. Pollack, J.</p>
9-12-73	<p style="text-align: right;">#73,796</p> <p>NORMAN GOLDSTEIN- (atty present) filed JUDGMENT- deft is hereby committed to the custody of the Atty General or his authorized representative for imprisonment for a period of EIGHT (8) YEARS on count 1. Pursuant to the provisions of Title 21, Sec. 841, U.S. Code, the deft is placed on Special Parole for a term of THREE (3) YEARS to commence upon expiration of confinement. - AND- FINED \$25,000 to be paid or deft is to remain committed until the fine is paid or he is otherwise discharged according to law. Deft is cont'd on present bail pending Notice of appeal and thereafter bail pending Appeal is fixed at \$75,000. Pollack, J. 9-17-73 Issued commitments.</p>

#73,790

9-12-73 JACK BLESS-(atty present) filed JUDGMENT- Deft is hereby committed to the custody of the Atty General or his authorized representative for imprisonment for a period of TEN (10) YEARS on each of counts 1,4,5 & 6 to run concurrently with each other. Pursuant to the provisions of Sec. 841, T. 21, US Code deft is placed on Special Parole for a term of THREE (3) YEARS to commence upon expiration of confinement. -AND- FINED \$25,000. to cover all counts. Fine to be paid or deft. is to remain committed until the fine is paid or he is otherwise discharged according to law. Deft is advised of his right to appeal. Pollack, J.
9-17-73 issued commitments.

#73,797

9-12-73 OCTAVIO DEL BUSTO- (atty presnet) filed JUDGMENT- deft is hereby commit to the custody of the Atty General or his authorized representative imprisonment for a period of FIVE (5) YEARS on each of counts 1 and to run concurrently with each other. Pursuant to the provisions of T.21 Sec. 841, US Code, the deft is placed on Special Parole for a term of THREE (3) YEARS to commence upon expiration of confinement -AND- FINED \$10,000. to cover both counts. Fine is to be paid or de is to remain committed until the fine is paid or he is otherwise discharged according to law. Deft is advised of his right to appeal Pollack, J.
9-17-73 issued commitments.

#73,798

9-12-73 LUIS VALENTINE-(atty present) filed JUDGMENT-deft is hereby committed to the custody of the Atty General or his authorized representative for sonment for a period of TWELVE (12) YEARS, on each of counts 1 and to run concurrently with each other. Pursuant to the provisions of T.21, USC Sec. 841, the deft is placed on Special Parole for a term of SIX (6) YEARS to commence upon expiration of confinement -AND- FINED \$50,000. to cover both counts. Fine is to be paid or deft is remain committed until the fine is paid or he is otherwise discharged according to law. Deft is advised of his right to appeal. Pollack, J.
9-17-73 issued commitments.

9-14-73 FRANK SERRANO- filed notice of appeal from final judgment dtd 9-12-73.
Mailed copies.

#73,799

9-12-73 EDWARD PETER SCHWORAK- (atty present) filed JUDGMENT - deft is hereby committed to the custody of the Atty General or his authorized representative for a period of EIGHT (8) YEARS on count 1. Pursuant to the provisions of T.21, Sec. 841, US Code, the deft is placed on Special Parole for a term of THREE (3) YEARS to commence upon expiration of confinement -AND- FINED \$10,000. Fine is to be paid or deft is to remain committed until the fine is paid or he is otherwise discharged according to law. This sentence is to run CONSECUTIVELY to any sentence previously imposed and outstanding in any Federal Court. The court directs the Clerk to file a Notice of Appeal on behalf of the deft. Pollack, J.
9-18-73 Issued commitments.

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DATE	PROCEEDINGS	A-22
9-14-73	SUSAN WEYL-(atty present) filed JUDGMENT- Deft is sentenced as a YOUNG ADULT OFFENDER on count 1, pursuant to Sec. 5010(a) of T. 18, US Code, as extended by Sec. 4209 fo T.18, US Code The imposition of sentence is suspended and the deft is placed on PROBATION (UNSHPERVISED) for aperiod of TWO(2) YEARS, subject to the standing Probation order of this Court. POLLACK, J.	* 73 792
9-12-73	HERBERT SPERLING-(atty present) filed JUDGMENT- deft is hereby committed to the custody of the Atty General or his authorized representative for imprisonment for a period of THIRTY (30) YEARS on each of counts 1,8,9 and 10 to run concurrently with each other. LIFE IMPRISONMENT on count 2 to run concurrently with the sentence imposed on each of counts 1,8,9 and 10. -AND- FINED \$50,000. on each of counts 1,8,9 and 10. FINED \$100,000. on count 2. Said fines totalling \$300,000. are to be paid or deft is to stand committed until the fines are paid or he is otherwise discharged according to law.-AND- the deft shall pay the cost of prosecution pursuant to T.28, US Code, Sec. 1918 (b) the amount to be determined in accordance with law and entered hereon. The deft is advised of his right to appeal. Pollack, J. 9-19-73 Issued commitments.	
9-17-73	NORMAN GOLDSTEIN- filed notice of appeal to the USCA from judgment dtd 9-12-73. Mailed copies.	
9-17-73	LUIS VALENTINE- filed notice of appeal to the USCA FROM judgment dtd 9-12-73. Mailed copies. Leave to file appeal in forma pauperis is granted. Pollack, J.	
9-17-73	FRANK BASSI- filed notice of appeal to the USCA from judgment dtd 9-12-73. Mailed copies.	
9-19-73	JACK BLESS- filed notice of appeal from final judgment dtd 9-12-73. mailed copies.	
9-19-73	FRED BERGER- filed notice of appeal from final judgment dtd 9-12-73. mailed copies.	
9-20-73	Filed ORDER that in pursuance of Rule 42(a) FRCr.P. the deft. N. Garcia is found to be in contempt of this Court and is hereby committed to the custdoy of the Atty General or his authorized representative, for imprisonment for a period of six months. Deft was remanded without bail following his conviction. Pollack, J. mn	
9-20-73	OCTAVIO DEL BUSTO- filed notice of appeal from judgment dtd 9-12-73. mailed copies.	
9-21-73	JUAN SERRANO- filed notice of appeal to the USCA from judgment of 9-12-73. Mailed copies.	
9-21-73	EDWARD P. SCHWORAK- filed notice of appeal from judgment dated 9-12-73. Mailed copies.	
9-24-73	NELSON GARCIA: Filed notice of appeal from judgment of 9-13-73. Mailed copies.	

DATE	PROCEEDINGS	A-23
9-24-73	HERBERT SPERLING- filed notice of appeal to the USCA from judgment dtd 9-12-73. mailed copies.	
9/26/73	Filed transcript of record of proceedings, dated Apr. 15, 1973	
9/26/73	Filed transcript of record of proceedings, dated Apr. 18, 1973	
9/26/73	Filed transcript of record of proceedings, dated Apr. 25, 1973	
9/26/73	Filed transcript of record of proceedings, dated May 3, 1973	
9/26/73	Filed transcript of record of proceedings, dated May 7, 1973	
9/26/73	Filed transcript of record of proceedings, dated May 21, 1973	
9/26/73	Filed transcript of record of proceedings, dated June 14, 1973	
9/26/73	Filed transcript of record of proceedings, dated June 15, 1973	
9/26/73	Filed transcript of record of proceedings, dated June 18, 1973	
9/26/73	Filed transcript of record of proceedings, dated June 21, 22, 25, 26, 27, 1973.	
9/26/73	Filed transcript of record of proceedings, dated June 28, 29, 1973 + July 2, 3, 5, 1973	
9/26/73	Filed transcript of record of proceedings, dated July 6, 9, 10, 11, 12, 1973	
5-30-73	Filed Govt's memorandum of law in opposition to deft Sperling's motion for dismissal.	
7-23-73	C. SPERLING- filed discharge dtd 7-12-73.	
7-23-73	H. SPERLING- filed remand dtd 5-21-73.	
7-23-73	E. BLESS- filed discharge dtd 7-12-73.	
7-27-73	J. SERRANO- filed remand dtd 7-12-73.	
7-27-73	J. Doe t/n P. Schwoork- filed remand dtd 5-18-73.	
8-16-73	Filed transcript of record of proceedings dtd 5-17-73.	
8-20-73	Filed transcript of record of proceedings dtd 5-15-73.	
10-4-73	Filed notice to the docket clerk that the record on appeal has been certified and transmitted to the U.S.C.A. 10-4-73.	
10-19-73	J. BLESS- filed remand dtd 7-12-73.	
11-15-73	H. Sperling- filed remand dtd 7-12-73.	
11-15-73	N. Garcia- filed true copy of judgment dtd 9-12-73 and marshal's return, deft committed 9-12-73 following production on writ.	
	-cont'd on next page-	

DATE	PROCEEDINGS	A-24
10-15-73	O. Del Busto- filed true copy of judgment & marshal's return deft delivered 9-12-73 Warden, Fed. Det. Hdqtrs.	
10-15-73	F. Bassi, Jr.- filed true copy of judgment & marshal's return deft delivered 9-12-73 Warden, Fed. Det. Hdqtrs.	
10-15-73	H. Sperling- filed true copy of judgment & marshal's return deft delivered 9-12-73 Warden, Fed. Det. Hdqtrs.	
10-15-73	J. Bless- filed true copy of judgment & marshal's return deft delivered to Warden, Fed. Det. Hdqtrs. 9-12-73.	
10-15-73	E. Schworak- filed true copy of judgment & marshal's return deft delivered to Warden, Fed. Det. Hdqtrs. 9-12-73.	
10-15-73	N. Garcia- filed true copy of order dtd 9-20-73 and marshal's return, deft committed to Warden, Fed. Det. Hdqtrs. 9-19-73.	
10-16-73	H. Sperling- filed motion re: bail pending appeal.	
10-15-73	L.VALENTINE- filed true copy of judgment & commitment and return, deft delivered on 9-12-73 to Warden, Fed. Det. Hdqtrs. N.Y.C.	
10-18-73	Filed MEMO-END. on motion dtd 10-16-73. Motion for bail pending appeal is denied. This deft's pre-sentence report (Sperling) was made part of the sentencing, having been reviewed by deft's counsel in advance thereof. The sentence included a life- term. The deft was convicted of narcotics offenses and had been previously convicted of narcotics violation and was sentenced as a second offender. No bail terms could be fashioned reasonably which would be appropriate here-deft is a danger to the community and there have been substantial indications that freeing him on bail might endanger the safety and lives of trial witnesses. There is no colorable issue for appeal; deft took the witness stand and the jury resolved all issues of credibility against him. Pollack, J. mn / Edward Schworak	
11-2-73	Filed deft's notice of motion for reduction of sentence no return date given.	
11-5-73	Del Busto- filed CJA 21 appointment for special services of court reporters (for appeal) Pollack, J. mn	
11-7-73	Filed transcript of record of proceedings dated: May 25-73.	
11-7-73	Filed transcript of record of proceedings dated: May 31-73.	
11-9-73	Filed trial transcript of record of proceedings dtd: May 31-73.	
11-7-73	Filed Govt's affdvt in opposition to deft Schworak's motion to reduce sentence.	
-cont'd on next page- page 18		

- 1-7-73 Filed MEMO-END. on motion for reduction of sentence of deft dtd 11-2-73. The deft was offered counsel, refused counsel, insisted he had arranged for his own atty but needed funds that the govt. had tied up. obtained the Court's intercession to free those funds, failed or refused to use them to pay the lawyer he had selected and generally established to the Court that a species of dames manship pnaa calculated fasis was what he really had in mind there is no just reason for a reudction of sentence. Pollack, J. mn
- 11-9-73 Filed notice to the docket clerk that the supplemental record on appeal has been certified and transmitted to the U.S.C.A. 11-9-73.
- 11-15-73 Filed (R. Griffin) CJA form 21 authorization for payment of court reporters. mailed copies.
- 1-7-73 Filed supplemental record on appeal to the U.S.C.A. has been transmitted and certified to the USCA 11-7-73.
- 1-30-73 Filed transcript of record of proceedings dtd 4-13-73.
- 12/5/73 ~~FILED~~ ~~RECEIVED~~ ~~SEP 5 1973~~ ~~SEP 5 1973~~
- 12-12-73 Filed transcript of record of proceedings dtd: Sept. 12-73. / Herbert Sperling
- 12-13-73 Filed supplemental record on appeal to the U.S.C.A. has been certified and transmitted to the U.S.C.A. 12-13-73.
- 2-14-73 Filed (Del Busto) CJA form 21 authorization for payment of fees of expert services of Court Reporters. Pollack, J. mn
- 14-74 Filed Stip that Court Exhibits 1-156 in the above-captioned case be docketed as part of a supplemental record on appeal.
- 16-74 Filed 4th supplemental notice that the record on appeal has been certified and transmitted to the U.S.C.A. on 1-16-74.
- 2-74 Filed deft Del Busto notice of motion re: reduction of bail, etc. ret: 1-11-74.
- 16-74 Filed Govt's affdvt in response to the motion of deft Del Busto for bail pending appeal.
- 16-74 Filed MEMO-END. on motion dtd 1-2-74...However, the payment of the fine assessed is stayed pending disposition of the appeal. There are no significant grounds appearing to the Court of probable error in the record as to this deft and none have been advanced on his behalf which seem to so indicated. Motion disposed of accordingly. Pollack, J. mn
- 1-17-74 Filed Stip between atty for deft Garcia & US Atty designating exhibits to be transmitted to USCA.

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PROCEEDINGS

A-26

DATE	
1-17-74	N. GARCIA- filed CJA 21 authorization for payment of fees of expert David Shaw. Mailed copies. Pollack, J.
1-18-74	Filed supplemental notice that the record on appeal has been certified and transmitted to the U.S.C.A. 1-18-74.
1-22-74	O. Del Busto- filed notice of appeal from order denying defts application for reduction of bail dtd 1-16-74. Mailed deft & U.S. Atty.
1-24-74	N. GARCIA - filed CJA form 20 voucher for compensation of atty. Mailed copies Pollack, J.
1-29-74	J. SERRANO- filed CJA form 21 appointment of Court Reporters. mailed copies. Kaufman, C.J.
1-31-74	Filed transcript of record of proceedings, dated 1/25/74
3/21/74	Valentine- filed CJA form 20 approval for payment of atty. Pollack, J. mn
5/6/74	Filed true copy of order of the U.S.C.A. that the judgment of the District Court is affirmed. Clerk (DelBusto)
6/7/74	JOSEPH CONFORTI- (atty present) Filed JUDGMENT- deft is sentenced to FIVE (5) YEARS on count 1. Execution of sentence is suspended. Deft. is placed on probation (unsupervised) for a period of FIVE (5) YEARS. Pollack, J. 6/7/74 Issued copies. ent. 6/7/74
7/15/74	Filed transcript of record of proceedings, dated 7/25/74
10/15/74	Filed Stip. & Order that the deft. Frank Bassi be released from custody upon the posting of bail in the amount of \$50,000. cash or surety company bond alternative. Pollack, J.
10/29/74	Frank Bassi- filed magistrate's orig. papers from Northern District of Georgia: (1) docket sheet (2) appearance bond (3) power of atty. (4) notice to deft. released on bond (5) copy of order dated 10/15/74 of Judge Pollack.
10/21/74	J. Conforti- filed CJA 20 appointment of atty. Daniel J. Sullivan. (see atty. listing) mailed copies by CJA Clerk Pollack, J.
10/21/74	J. Conforti- filed CJA 20 approval for payment of fees of atty. mailed copies CJA clerk. Pollack, J.
11/15/74	H. Sperling- filed notice of motion for speedy trial.
11/19/74	Filed true copy of order of the U.S. Court of Appeals that the appeal of Nelson Garcia from the judgment of the U.S.D.C. for the S.D.N.Y. is dismissed. Clerk mailed notices.

DATE	PROCEEDINGS	A-27
12/5/74	F. Bassi- filed appearance bond in the sum of \$50,000.	
12/5/74	Deft. Norman Goldstein- bail discharged. Deft. remanded. Deft. sentenced this date on 74 Cr. 158. Sent. to run conc. w/ser. imposed in this case. Pollack, J.	
12/19/74	<i>N. Goldstein - filed demand dated 12/19/74.</i>	
12/20/74	<i>F. Bassi - filed demand dated 12/20/74.</i>	
1/28/75	Jack Bless -Filed Letter dated 1/25/75 to Judge Pollack, to reduce sentence.	
1/28/75	Filed deft. J. Bless' petition for sentence reduction, pur. Rule 35FRCP.	
1/27/75	Filed Govt.'s affdvt. for writ of habeas corpus ad. testificandum for Joseph Santiago. writ issued ret. 1/28/75.	
1/30/75	Filed true copy of order and opinion of the U.S.C.A. that the judgments of the District Court are affirmed in part and reversed in part and that the actions as to appellants Herbert Sperling, Jack Bless, Juan Serrano, Frank Serrano, Frank Bassi, Jr., Fred Berger, Octavio Del Busto, Nelson Garcia be and they hereby are remanded to said District Court for further proceedings in accordance with the opinion of this Court. Clerk mn Judgment entered Clerk.	
02-25-75	Filed writ of habeas corpus ad testificandum for Joseph Santiago. Writ satisfied. 02-28-75 Frankel, J.	
03-03-75	Filed Govt.'s affdvt. re: opposition to motion to reduce sentence.	
03-30-75	Filed memo-end. on motion docketed 1-28-75. The within motion (of Jack Bless) for reduction of sentence is denied. Pollack, J. mn	
03-14-75	Frank Serrano, Jr.- filed Personal Recognizance Bond in the sum of \$10,000	
03-19-75	Filed true copy of order of the U.S. Supreme Court that Herbert Sperling' petition for writ of certiorari is denied. mn	
03-19-75	Filed true copy of order of the U.S. Supreme Court that Norman Goldstein' petition for writ of certiorari is denied. mn	
03-14-75	Motion to reduce bail for Frank Serrano from \$5,000. cash or surety granted. Bail fixed by Court at \$10,000. Personal recognizance Bond. Previous bail is exonerated. Pollack, J.	
03-19-75	Deft. Ben Mallah-surrenders to U.S. Marshal. Pollack, J.	
03-75	Deft. Courtland Sample, A/73. Rucky. Filed affidavit & notice of motion Re: Conspiracy, Re: Illegal agreement to violate sections as indicate Ret. 4-7-75.	
4-03-75	Filed USA memorandum of law in opposition to deft's Berger's motion to sever deft. Cortland Sample.	

DATE

PROCEEDINGS

04-02-75 S. Weyl- filed order of discharge from probation. Pollack, J.

04-02-75 S. Weyl- filed certificate of vacation of conviction. Pollack, J.

04-07-75 C. Sample- filed notice of appearance by atty. Julius A. Silberbush, Esq. 277 Bway, NYC 10007 tele: Wo 2-2422.

04-07-75 Filed copy of letter from H. Sperling to Judge Bonsal re: date for trial.

04-17-75 Entered and filed nolle prosequi as to defts. Ben Mallah, Vincent Pacelli, Jr., Ismael Torres, Peter Salanardi, Albert Perez Al Bracer, Edgardo Ramirez, and Jack Spada. Pollack, J.

04-22-75 Filed Govt.'s notice of readiness for trial.

04-23-75 Filed deft. O. del Busto's motion re: request new sentence.

~~04-23-75~~ Filed transcript of record of proceedings, dated 6-7-74.

04-25-75 Filed memo-end. on motion docketed 4-23-75. Deft. Del Busto's motion for resentence: resentence on 5-6-75. Pollack, J.mn

04-22-75 Jury trial begun as to defts. Frank Bassi, Fred Berger, Frank Serano (re-trial) before Judge Bonsal.

04-23-75 Trial cont'd.

04-24-75 " "

04-25-75 " "

04-29-75 Trial cont'd. Jury verdict defts F. Bassi, F. Berger & F. Serrano acquitted. Defts. discharged. Bonsal, J.

04-29-75 Filed deft. N. Goldstein's notice of motion re: reduction of sentence ret. 5-9-75.

05-06-75 OCTAVIO DE BUSTO(atty. present) Filed JUDGMENT # 75, 414 (re-sentence pursuant to Mandate of U.S.C.A. dated 1-30-75 on ct.11.) deft. is committed to the custody of the Atty. Gen'l. for imprisonment for a period of FIVE (5) YEARS on count 11. Pursuant to the provisions of T. 21, Sec. 841, U.S. Code, the deft. is placed on Special Parole for a term of THREE (3) YEARS to commence upon expiration of confinement. -AND- FINED \$10,000. Fine is to be paid or deft. is to remain committed until the fine is paid or deft. is to remain committed until the fine is paid or he is otherwise discharged according to law. Count 1 is dismissed on motion of the Govt. counsel. Pollack, J. issued all copies.

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PROCEEDINGS

- 05-12-75 JUAN SERRANO (atty. present) Filed JUDGMENT # 75, 413 (sentence pursuant to mandate of U.S.C.A. dated 1-30-75 on count 1.) deft. is committed to the custody of the Atty. Gen'l. for imprisonment for a period of TEN (10) YEARS on count 1. Pursuant to Provisions of Sec. 841, T. 21 U.S.Code, deft. is placed on Special Parole for a term of SIX (6) YEARS to commence upon expiration of confinement -AND- Fined \$25,000. This is NOT a committed fine. Counts 7 and 10 are dismissed on motion of the Govt. counsel. Deft. is advised of his right to appeal. Pollack, J. issued all copies.
- 5-12-75 Filed true copy of order of the Supreme Court of the U.S. that the petition for a writ of certiorari to the U.S.C.A. 2nd Circuit is denied. Clerk mn
- 05-12-75 Filed memo-end. on motion docketed 4-29-75. Motion to reduce or to add any provision thereto is denied. Pollack, J. mn
- 05-16-75 Filed transcript of record of proceedings, dated 11/22, 23, 24, 25, 29, 1975.
- 5-15-75 ISMAEL TORRES- Filed Personal Recognizance Bond in the sum of \$25,000.
- 5-16-75 JUAN SERRANO- filed judgment and commitment, deft. delivered to Warden Fed. Det. Hdqtrs, N.Y.C. deft. committed 7-12-73 following arrest: released 7-23-73 on bail.
- 5-16-75 Entered and filed nolle prosequi-Herbert Sperling in counts 8, 9 & 10; Juan Serrano on counts 7 & 10; Jack Bless on counts 4, 5 & 6 and Nicholas Cuccinello on count 1. Pollack, J.
- 5-21-75 H. Del Busto- filed CJA 21 appointment of Gerardo Sanchez, Interpreter mailed copies CJA Clerk Pollack, J.
- 5-21-75 O. Del Busto- filed CJA 21 approval for payment of interpreter. mailed copies CJA Clerk Pollack, J.
- 05-22-75 Filed deft. O. Del Busto's notice of appeal from judgment of 5-6-75. (deft.'s application to proceed in appeal in forma pauperis is denied as frivolous Pollack, J.)
- 05-27-75 L. Torres- filed remand dated 5-15-75.
- 6-03-75 Filed Govt.'s requests to change.
- 10-75 Filed letter from J. Serrano to Judge Pollack.
- 10-75 Filed memo-end. on letter docketed this date...The within communication is treated as an application for modification of sentence and under all the facts and circumstances is denied. Pollack, J. mn
- 05-11-75 Filed Govt.'s affdvt. re: opposition to motion of deft. Cortland Samp to dismiss the indictment, etc.
- 5-16-75 Filed memo-end. on motion docketed 4-3-75...Motion denied except to be permitted at argument on 4-7-75, etc. Bonsai, J. mn

U.S. No. Rev. Civil Docket Continuation

PROCEEDINGS

DATE	PROCEEDINGS
6-11-75	Juan Serrano- Upon defense attorney's application and with consent of the Govt. the deft.'s bail is exonerated. Pollack, J.
07-15-75	Filed deft. B. Mallah's notice of motion re: reduction of sentence.
7-17-75	Filed transcript of record of proceedings, dated 5-25-73.
07-18-75	HERBERT SPERLING- Notice of motion re: order granting application for vacating Court's Order granting prosecutor's ex parte application for nolle prosequi of Cts. 8, 9, and 10 of indictment order a retrial thereto and in alternative to amend original order to read: "Dismissed with Prejudice." with atchd affdvt & proof of service.
07-24-75	Filed Govt.'s affdvt. re: opposition to deft. Sperling's motion to reinstate the criminal charges against him or in the alternative to have the charges dismissed with prejudice.
07-24-75	Filed memo-end. on motion docketed 7-18-75. Motion denied. Pollack, J.
07-24-75	Filed memo-end. on motion docketed 7-15-75. Motion denied. Pollack, J.
07-31-75	Filed deft. H. Sperling's reply to the Govt.'s affdvt. re: cts. 8, 9 & 10
08-13-75	Filed Govt.'s affdvt. and writ of habeas corpus ad pros. for Jack Bless. ret. 8-25-75.
09-08-75	Filed deft. Herbert Sperling's notice of appeal from order of Court denying deft.'s motion to vacate a prior order. of 7-24-75. Mailed copies to U.S. Atty. & deft. 9-9-75.

A TRUE COPY

RAYMOND F. BURGHARDT, Clerk

BY

Deputy Clerk

A.D.

